

# Order

Michigan Supreme Court  
Lansing, Michigan

March 28, 2014

147981

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

DANIEL HORACEK,  
Defendant-Appellant.

Robert P. Young, Jr.,  
Chief Justice

Michael F. Cavanagh  
Stephen J. Markman  
Mary Beth Kelly  
Brian K. Zahra  
Bridget M. McCormack  
David F. Viviano,  
Justices

SC: 147981  
COA: 317527  
Oakland CC: 2012-241894-FH

On order of the Court, the application for leave to appeal the September 12, 2013 order of the Court of Appeals is considered. We DIRECT the Oakland County Prosecuting Attorney to answer the application for leave to appeal within 28 days after the date of this order. In particular, the prosecutor shall address whether, assuming for the sake of argument that a Fourth Amendment violation occurred when the police officers entered the defendant's motel room and that his motion to suppress should have been granted, the defendant is entitled to withdraw his conditional plea. See MCR 6.301(C)(2); *People v Reid*, 420 Mich 326 (1984). We note that at the motion/plea hearing, the prosecutor argued that, even if there was a Fourth Amendment violation, the error was harmless beyond a reasonable doubt because there was sufficient untainted evidence to go forward with the prosecution of the defendant. The prosecution shall address whether its consent to the conditional plea, despite its acknowledgement that any error would be harmless, would entitle the defendant to withdraw his plea.


The application for leave to appeal remains pending.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 28, 2014

  
Clerk